

18TH JUDICIAL DISTRICT COURT FOR THE PARISH OF IBERVILLE

STATE OF LOUISIANA

DOCKET NO. 78953

DIVISION "A"

AUGUST J. LEVERT, JR., FAMILY, LLC; RONALD R. LEVERT; PAUL M. LEVERT;
MARK W. LEVERT, JR.; JOHN E. SANFORD; JAMES L. SANFORD; and CAMPO E.
MATENS

VERSUS

BP AMERICA PRODUCTION COMPANY

FILED: _____

DEPUTY CLERK OF COURT

**JOINT MOTION FOR ENTRY OF
ENVIRONMENTAL AND CASE MANAGEMENT ORDER**

NOW INTO COURT, through undersigned counsel, come Plaintiffs, August J. Levert, Jr., Family, LLC, Ronald R. Levert, Paul M. Levert, Mark W. Levert, Jr., John E. Sanford, James L. Sanford, and Campo E. Matens, and Defendant, BP America Production Company (collectively, the "Parties"), who jointly move the Court to enter the attached Environmental and Case Management Order on the following grounds:

1.

Environmental Management Orders are authorized pursuant to Article 1552 of the Louisiana Code of Civil Procedure.

2.

The Parties represent that the proposed Environmental and Case Management Order was circulated to all known counsel of record for the Parties by e-mail and all have had the opportunity to review and to suggest modifications to the Environmental and Case Management Order.

3.

The attached Environmental and Case Management Order represents the Environmental and Case Management Order agreed to by the Parties.

WHEREFORE, the Parties pray that the Court enter the attached Environmental and Case Management Order into the record of this matter.

Respectfully submitted:

Kevin Huddell w/permission by JST
Gladstone N. Jones, III (#22221)
Bernard E. Boudreaux (#02219)
Kevin Huddell (#26930) ✓
Emma Elizabeth Antin Daschbach (#27358)
John Thomas Arnold (#31601)
Lindsay E. Reeves (#32703)
Jones, Swanson, Huddell & Daschbach, L.L.C.
601 Poydras St., Ste. 2655
New Orleans, LA 70130
Telephone: (504) 523-2500
Facsimile: (504) 523-2508
gjones@jonesswanson.com
bboudreaux@jonesswanson.com
khuddell@jonesswanson.com
edaschbach@jonesswanson.com
jarnold@jonesswanson.com
pfreiberg@jonesswanson.com
lreeves@jonesswanson.com

-and-

Andrew K. Jacoby (#32512)
Law Office of Andrew Jacoby, LLC
2118 Pakenham Dr.
Chalmette, LA 70043
Telephone: (504) 407-1314
andrew@parishlawyer.com

Attorneys for Plaintiffs

John Troutman
George Arceneaux III #17442
garceneaux@liskow.com
Court C. VanTassell #31247
cvantassell@liskow.com
Emily C. Borgen #34132
ecborgen@liskow.com
John S. Troutman #36059 ✓
jtroutman@liskow.com
Randee V. Iles #38781
rviles@liskow.com
LISKOW & LEWIS
822 Harding St.
Lafayette, LA 70503
Telephone: 337-232-7424
Facsimile: 337-267-2399

and

Denice Redd-Robinette #38582
drrobinette@liskow.com
LISKOW & LEWIS
450 Laurel St., Ste 1601
Baton Rouge, LA 70801
Telephone: 225-341-4660
Facsimile: 225-341-5653

and

Kelly B. Becker #27375
kbbecker@liskow.com
Erin E. Bambrick #35035
embambrick@liskow.com
LISKOW & LEWIS
701 Poydras St., Ste 500
New Orleans, LA 70139
Telephone: 504-556-4005
Facsimile: 504-556-5108

**Attorneys for BP America Production Company,
Defendant**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has this day been forwarded to all known counsel of record by e-mail properly addressed.

Lafayette, Louisiana, this 31st day of May, 2022.



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MATENS

VERSUS

BP AMERICA PRODUCTION COMPANY

FILED: _____

DEPUTY CLERK OF COURT

ORDER

Considering the foregoing,

IT IS HEREBY ORDERED that the Joint Motion for Entry of Environmental and Case Management Order is GRANTED and that the Environmental and Case Management Order attached to the Joint Motion is hereby entered into the record of this matter.

SO ORDERED in _____, Louisiana on the ____ day of _____, 2022.

JUDGE

PLEASE PROVIDE NOTICE
TO ALL PARTIES

18TH JUDICIAL DISTRICT COURT FOR THE PARISH OF IBERVILLE

STATE OF LOUISIANA

DOCKET NO. 78953

DIVISION "A"

AUGUST J. LEVERT, JR., FAMILY, LLC; RONALD R. LEVERT; PAUL M. LEVERT;
MARK W. LEVERT, JR.; JOHN E. SANFORD; JAMES L. SANFORD; and CAMPO E.
MATENS

VERSUS

BP AMERICA PRODUCTION COMPANY

FILED: _____

DEPUTY CLERK OF COURT

ENVIRONMENTAL AND CASE MANAGEMENT ORDER

IT IS HEREBY ORDERED that the following Environmental and Case Management Order (hereinafter, the "Order") be entered in this Case by and between the Plaintiffs, August J. Levert, Jr., Family, LLC, Ronald R. Levert, Paul M. Levert, Mark W. Levert, Jr., John E. Sanford, James L. Sanford, and Campo E. Matens (collectively, the "Plaintiffs"), and Defendant, BP America Production Company ("BP").

I. GENERAL PROVISIONS

- A. The effective date of this Order shall be upon signing by the Court.
- B. Nothing contained herein shall prohibit any party to these proceedings (hereinafter, "Party" or "Parties") from obtaining relief from, or modification of, any deadlines, protocols, or provisions of this Order for good cause shown, after notice and a contradictory hearing.
- C. Nothing contained herein shall prevent the Parties, by written agreement, from modifying the specific provisions, protocols, or deadlines contained in this Order.
- D. Expert draft reports and communications between counsel and experts shall not be discoverable.
- E. Any Party who desires to conduct Environmental Sampling or data collection, as herein defined, on the property at issue in these proceedings (hereinafter, the "Property") shall do so pursuant to the deadlines and protocols established this Order.

F. It is the Parties' intention that this Order meets the requirements of an Environmental Management Order as defined by La. C.C.P. art. 1552.

II. ISSUANCE OF NOTICE AND EXCHANGE OF DATA

A. The notice required in this Order and the exchange of laboratory results, data, expert reports, and information required in this Order shall be provided by USPS mail, Federal Express, UPS, or e-mail to a representative of each Party as follows:

FOR PLAINTIFFS:

Gladstone N. Jones, III
Bernard E. Boudreaux
Kevin Huddell
Emma Elizabeth Antin Daschbach
John Thomas Arnold
Peter Freiberg
Lindsay E. Reeves
Rosa E. Acheson
Jones, Swanson, Huddell & Daschbach, L.L.C.
601 Poydras St., Ste. 2655
New Orleans, LA 70130
Telephone: (504) 523-2500
Facsimile: (504) 523-2508
gjones@jonesswanson.com
bboudreaux@jonesswanson.com
khuddell@jonesswanson.com
edaschbach@jonesswanson.com
jarnold@jonesswanson.com
pfreiberg@jonesswanson.com
lreeves@jonesswanson.com
racheson@jonesswanson.com

-and-

Andrew K. Jacoby
Law Office of Andrew Jacoby, LLC
2118 Pakenham Dr.
Chalmette, LA 70043
Telephone: (504) 407-1314
andrew@parishlawyer.com

FOR BP:

George Arceneaux III
Court C. VanTassell
Emily C. Borgen
John S. Troutman
Ranee V. Illes
Liskow & Lewis
822 Harding Street
Lafayette, LA 70503
Telephone: (337) 232-7424
Facsimile: (337) 267-2399

garceneaux@liskow.com
cvantassell@liskow.com
ecborgen@liskow.com
jtroutman@liskow.com
rviles@liskow.com

-and-

Denice Redd-Robinette
Liskow & Lewis
450 Laurel St., Ste 1601
Baton Rouge, LA 70801
Telephone: 225-341-4660
Facsimile: 225-341-5653
drrobinette@liskow.com

-and-

Kelly B. Becker
Erin E. Bambrick
Liskow & Lewis
701 Poydras St., Ste 500
New Orleans, LA 70139
Telephone: 504-556-4005
Facsimile: 504-556-5108
kbbecker@liskow.com
embambrick@liskow.com

III. SAMPLING AND REPORTING DEADLINES

- A. On or before **July 29, 2022**, all Environmental Sampling and data collection on behalf of the Plaintiffs shall be completed. “Environmental Sampling” means the physical collection of soil, sediment, surface water, groundwater, biota, or other environmental media for removal to any offsite location for laboratory analysis or other purposes, or conducting any slug test, pump test, or “GEM” survey.
- B. On or before **July 29, 2022**, Plaintiffs shall complete and exchange all expert reports addressing the existence, location, content, characteristics, assessment, delineation of claimed environmental damage or contamination on the Property, including any proposed evaluation or remediation of said environmental damage or contamination, if any.
- C. On or before **August 12, 2022**, Plaintiffs shall complete and exchange all other remaining plaintiff expert reports.
- D. On or before **January 31, 2023**, all Environmental Sampling and data collection on behalf of BP shall be completed. This date shall be the conclusion of all

Environmental Sampling and data collection for the purposes of Louisiana R.S. 30:29 and Louisiana Code of Civil Procedure 1563.

- E. On or before **January 31, 2023**, BP shall complete and exchange all expert reports addressing the existence, location, content, characteristics, assessment, delineation of claimed environmental damage or contamination on the Property, including any proposed evaluation or remediation of said environmental damage or contamination, if any.
- F. On or before **February 13, 2023**, BP shall complete and exchange all other remaining defense expert reports.
- G. Plaintiffs shall make available for deposition all plaintiff experts between **February 20, 2023** and **March 10, 2023**.
- H. Any limited admission under Louisiana Revised Statute § 30:29 and Louisiana Code of Civil Procedure article 1563 shall be filed no later than **May 1, 2023**, in accordance with the provisions of Louisiana Code of Civil Procedure article 1563. BP reserves the right to apply to the Court for a stay or continuance of the trial date in the event that a limited admission is made pursuant to the provisions of La. C.C.P. art. 1563 and La. R.S. 30:29. Plaintiffs reserve the right to oppose such a stay.
- I. BP shall make available for deposition all defense experts between **March 20, 2023** and **April 7, 2023**.
- J. All expert discovery shall be completed by **April 7, 2023**.
- K. Any expert report issued by or on behalf of a Party shall conform to the requirements of Louisiana Code of Civil Procedure article 1425(B):

The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefore and all data or other information considered by the witness in forming the opinions. The Parties, upon agreement, or if ordered by the court, shall include in the report any or all of the following: exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

- L. Reports shall be deemed exchanged, issued, and/or submitted when transmitted electronically to all counsel of record by the deadlines stated above.
- M. Any fees charged by experts for time spent giving deposition testimony shall be paid by the party who retained the expert. All fees charged by experts in responding to subpoenas as well as time spent and expenses incurred in preparing for depositions, shall be paid by the party who retained the expert. This provision is not intended to preclude any party from seeking cost reimbursement pursuant to Act 312, as amended, or that of any code article, revised statute, or law. The Parties reserve their right to seek reimbursement in the event that subpoenas or other document requests issued to experts are excessive or unreasonable.

IV. SITE ACCESS

- A. Pursuant to La C.C.P. art. 1552, any Party and its/their consultants shall have the right to access the Property to perform inspections and conduct Environmental Sampling or data collection without further need of orders from this Court or discovery requests. The right to conduct inspections and Environmental Sampling or data collection shall be subject to the provisions of this Order.

V. SAMPLING PROTOCOLS

- A. Sampling and/or testing of air, water, groundwater, soils, or sediments, including but not limited to: (a) the installation of any borings and collection of core samples; (b) the collection of “GEM” data or other data collected and generated at or near the time of sampling; (c) the collection of any biota for laboratory analysis other than simple identification of species; (d) any slug test or pump test, but not including the professional surveying of the property or of water levels in wells, (hereinafter “Sampling Event”), shall be conducted in accordance with this section. The party seeking to conduct a Sampling Event, or on whose behalf such Sampling Event will be conducted, is hereby referred to as the “Sampling Party.” The Parties will exercise good faith efforts to make the Property available for sampling in a manner which minimizes any interference with the use of the Property by Plaintiffs.

- B. The Sampling Party shall provide written notice to all other Parties of the scope and media to be sampled, and the date and location where such Sampling Event will take place. The Sampling Party shall provide such notice five (5) calendar days prior to the date on which the Sampling Event will be conducted (unless a shorter time is agreed to by all Parties) by sending the notice electronically, or delivering the notice personally, to each other party or its counsel. The notice shall identify the date of the Sampling Event and the scope of the Sampling Event. In describing the location, the notice must provide sufficient information to allow the other party to locate and attend the Sampling Event.
- C. Any other party who desires to witness the Sampling Event shall be allowed to do so at each Party's own cost and expense. The Sampling Party shall allow and/or provide reasonable access to the other Party to the Sampling Event.
- D. At the request of any other Party, the Sampling Party shall allow split or duplicate portions of the Sampling Party's samples to be collected by other Parties, if volume allows, but the party requesting split or duplicate samples will be responsible for the costs of testing the samples and the costs of containers and other routine field supplies necessary to collect the split samples. If volume is insufficient to allow each non-sampling party to obtain its own split sample, then the non-sampling Parties may agree on sharing split media or apply to the Court for an order to control split samples.
- E. Any and all testing data, boring logs, coordinate data, analytical results, etc. received by the Sampling Party and/or the party requesting split or duplicative samples shall be provided to any other party within thirty (30) days of written request for such testing data, boring logs, coordinate data, analytical results, etc., unless a good faith basis for objection is stated in response, such that the issue can be presented to the Court for decision. Electronic data or media such as that which is generated by terrain or other conductivity surveys, aquifer testing, NORM surveys, or similar electronically rendered processes, or other electronic means

shall be shared at the time data is collected if possible or otherwise promptly thereafter.

- F. The Sampling Event shall be conducted during daylight hours on any day of the ordinary work week, except that deep well installation and slug/pump testing may extend beyond daylight hours. No Sampling Event shall be conducted on Saturday, Sunday, or any other legal holiday, except with consent of all Parties or by order of the Court.
- G. The Parties and their counsel shall not interfere with the orderly progress of the Sampling Event or otherwise impede the Sampling Event.
- H. Any and all analytical test results from samples taken from the Property shall be submitted to all Parties and the Department of Natural Resources (hereinafter "DNR") within thirty (30) days of the receipt of certified laboratory results. If after submitting analytical test results to all Parties and DNR, there is a correction or change in the test results, then the revised data shall be provided to all Parties and DNR within thirty (30) days of the receipt of the corrected data from a laboratory. Compliance with this provision shall constitute full compliance with the requirements of Louisiana Code of Civil Procedure article 1552.
- I. Any party or its representative(s) may visit and enter upon the Property at issue in this case for the purpose of site review, reconnaissance, field work for the assessment or evaluation of ecological conditions including plants and animals (other than the collection of samples constituting a Sampling Event, including collection of samples of biota for any chemical analysis), and documentation of conditions on the Property upon five (5) calendar days' notice to all Parties, provided that counsel for BP may visit the Property with his/her client representative(s) for the sole purpose of site viewing and incidental photography upon two (2) business days advance notice to counsel for Plaintiffs. Nothing in this provision shall prohibit Plaintiffs from visiting their own Property.

- J. The notice provisions for sampling and visits hereunder may be waived by written consent of counsel for the Parties (e.g., electronic mail correspondence), or by order of the Court.
- K. Each Sampling Party shall be responsible for the registration and plugging and abandonment of any monitoring wells drilled on its behalf on the Property. Each Sampling Party shall be responsible for the proper disposal of any soil or purge water generated during a Sampling Event, including without limitation, any investigative derived waste. The Sampling Party shall list its client as the registrant or generator on any monitoring well registration forms, waste profiles, manifests, applications, and related documents.

VI. SUPPLEMENTAL PLEADINGS ADDING PARTIES OR CLAIMS

- A. Any supplemental or amending pleadings adding new parties or claims shall be filed no later than **August 15, 2022**.

VII. PRE-TRIAL DISCOVERY

- A. Witness and Exhibit Lists
1. On or before **June 15, 2022**, Plaintiffs shall serve on BP a preliminary list of fact and expert witnesses Plaintiffs will or may call to testify at trial.
 2. On or before **January 13, 2023**, BP shall serve on Plaintiffs a preliminary list of fact and expert witnesses BP will or may call to testify at trial
 3. Final witness and exhibit lists, including a bates-labeled designation of each exhibit, shall be served by each party **no later than fifteen (15) days before the commencement of trial**. If a witness on the final witness list was not included in that party's preliminary witness list, any other party shall have the right to take the deposition of the newly listed witness prior to trial and all other Parties may amend their final witness and exhibit lists to add witnesses and/or exhibits deemed necessary to counter or otherwise address the testimony of the newly listed witness.

B. Fact Discovery Deadline

1. Fact discovery shall be completed (except as necessary to depose any new fact witnesses identified for the first time in any party's final witness list) on or before **February 20, 2023**.

VIII. PRE-TRIAL MOTIONS AND TRIAL

- A. As required by Louisiana Code of Civil Procedure article 966(B)(1), motions for summary judgment shall be filed and served no later than **sixty-five (65) days before commencement of trial**.
- B. As required by Louisiana Code of Civil Procedure article 966(C)(1)(a), hearings on motions for summary judgment shall be set for no later than **thirty (30) days before commencement of trial**.
- C. In accordance with Louisiana Code of Civil Procedure article 1425(F)(1), all *Daubert* motions shall be filed and served no later than **sixty (60) days before commencement of trial**.
- D. In accordance with Louisiana Code of Civil Procedure article 1425(F)(2), the hearing on all *Daubert* Motions shall be set for no later than **thirty (30) days before commencement of trial**.
- E. Other than motions to compel, the deadline to file and serve all other pre-trial motions, including motions in limine shall be sixty (60) days before commencement of trial.
- F. The deadline to file motions to compel shall be **no later than one-twenty (120) days before commencement of trial**.
- G. Exceptions may be filed at any time authorized by the Louisiana Code of Civil Procedure.
- H. Any deposition designations shall be submitted **no later than thirty (30) days before the commencement of trial**.
- I. Any objections to or counter-designations to any deposition designations shall be submitted **no later than fifteen (15) days before commencement of trial**.

- J. Proposed jury instructions and proposed interrogatories shall be filed **no later than thirty (30) days before commencement of trial**. A copy of the proposed jury instructions and proposed interrogatories shall be emailed to lawclerk18thjdc@gmail.com.
- K. Any objections and/or comments to proposed jury instructions and proposed interrogatories shall be **filed no later than fifteen (15) days before commencement of trial**. A copy of any objections and/or comments to the proposed jury instructions and proposed interrogatories shall be emailed to lawclerk18thjdc@gmail.com.
- L. Joint Bench Books are due **one week prior to trial**. Bench books shall be delivered to the Judge's office in the Parish in which the trial will take place. Two copies of each bench book shall be submitted. Any exhibits to which the Parties DO NOT stipulate prior to trial shall be submitted in a separate binder.
- M. A Final Pre-Trial Conference shall be held on **May _____, 2023 at _____ a.m. in Plaquemine, Louisiana**.
- N. A jury trial in this matter shall commence on **June 12, 2023 and end on June 23, 2023, excluding the observance of Juneteenth (June 16, 2023)**. The Jury Bond in the amount of \$10,000.00 (Cash Deposit) is due **no later than sixty (60) days before the commencement of trial**.

THUS DONE AND SIGNED on this _____ day of _____, 2022, in _____, Louisiana.

JUDGE

**PLEASE SEND NOTICE
TO ALL PARTIES**